IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 24523 of 2006(T)

PETITIONER:

DASAN PAUL, S/O.PETER PAUL,
7/568, SAYUJYA, VICTORIA COLLEGE ROAD,
PALAKKAD.

BY ADV. SMT.P.K.RADHIKA

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE DISTRICT COLLECTOR,
PALAKKAD.

2. SPECIAL TAHSILDAR,
LAND ACQUISITION(G)NO.1,
PALAKKAD.

BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.24523/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: A TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED ON 10/10/03.

EXT.P2: A TRUE COPY OF THE REPRESENTATION DATED 4.11.2003.

EXT.P3: A TRUE COPY OF THE INQUIRY NOTICE DATED ON 9.3.06.

EXT.P4: A TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER DATED ON 4.5.06.

EXT.P5: A TRUE COPY OF THE REPRESENTATION DATED ON 21.6.06.

//TRUE COPY//

P.A. TO JUDGE

P.R.RAMAN, J.

W.P.(C) NO. 24523 OF 2006

Dated this the 31st day of January, 2007

J U D G M E N T

The petitioner is an owner of 17.10 cents of land and the buildings thereon situated in Sy.No.2419/2 in Palakkad I Village in Palakkad Taluk. According to him his land was proposed to be acquired and notification under Section 4(1) of the Land Acquisition Act was issued on 26/8/03 in the gazette followed by similar publications in Mathrubhumi as well as Malayala Manorama Dailies. Individual notices were also issued. Petitioner preferred his representation Exhibit P2. But compensation has not been paid and hence this writ petition is filed for a writ of mandamus to the respondents to award the compensation within a time frame.

2. In the statement filed by the 2nd respondent, it is averred that though the petitioner has claimed compensation, during the award enquiry, yet another person by name R.Rajasekharan has also claimed right over the property and in such circumstances, compensation payable has to be deposited in the court. But the fact remains that for want of funds from the

requisition department award could not be passed. The urgency and importance was brought to the notice of the requisition department. But all such attempts failed.

3. Admittedly, the notification under Section 4(1) was issued as early as in August 2003 and more than three years have elapsed and even now the award could not be passed. There is no hope even for the 2nd respondent to pass an award since funds are not made available.

4. However, the learned Government Pleader submits that the possession still continues with that of the petitioner.

5. In the factual situation, there will be a direction to the 2nd respondent to pass award within three months, failing which the entire proceedings for acquisition of the petitioner's land will stand quashed. The State cannot in the guise of a notification issued under the Land Acquisition Act decline to pass an award later, for an indefinite period virtually take away the right to property guaranteed under the Constitution. Therefore it is for the 2nd respondent to pass award as stated earlier after obtaining necessary funds and in case if he cannot do the same, further proceedings will stand dropped. Petitioner will be entitled to deal

with the property in the manner he likes on the expiry of the period of three months.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp